

SPECIFICALLY RELEASES SELLER FROM, ANY LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES TO ANY PERSON OR THE CLUB UNIT OR ANY OTHER REAL OR PERSONAL PROPERTY RESULTING FROM A DEFECT, WITH REGARD TO THE APPLIANCES AND ANY OTHER ITEMS OF TANGIBLE PERSONAL PROPERTY, SELLER DISCLAIMS ALL WARRANTIES INCLUDING, BUT NOT LIMITED TO, THOSE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN ADDITION, SELLER MAKES NO REPRESENTATION OR WARRANTY AND SPECIFICALLY DISCLAIMS ANY REPRESENTATION OR WARRANTY CONCERNING ANY GEOLOGICAL OR ENVIRONMENTAL MATTERS.

- (b) Limited Warranty. Seller has engaged a general contractor to renovate the Club Units. For a period of one-year from Closing, Seller warrants to Purchaser that materials and equipment furnished in connection with such contractor's work and incorporated into the Club Unit will be of good quality and new, unless otherwise required under the contractor's construction contract, that the contractor's work will be free from defects in workmanship and quality not inherent in the quality required under the contractor's construction contract for a period of one year from the date of issuance of a certificate of completion for the Club Unit. Seller shall cause the correction, by repair or replacement, of any defective or non-conforming work which result from faulty material or workmanship claimed within one-year of the date of issuance of a certificate of completion for the Club Unit, at no cost to Purchaser, provided that Purchaser gives Seller written notice of any such defect within ten (10) days after Purchaser's discovery of the defect ("Limited Warranty"). This Limited Warranty excludes any remedy for defect, non-conforming work, or damage caused by modifications not performed by Seller or Seller's contractor, or due to normal wear and normal usage occurring after the Closing. Purchaser's sole remedy (in lieu of all remedies implied by law or otherwise) against Seller in connection with such defects shall be to require Seller to cause the defects in material or workmanship to be corrected. Purchaser shall have no right to assert claims against Seller or its general contractor for any other monetary damages arising out of any defect in workmanship or materials. The Limited Warranty does not extend or relate to any items of tangible personal property in the Club Unit (regardless of whether such property is attached to or installed in the Club Unit).
 - (c) Magnuson-Moss Warranty Act Compliance. This Limited Warranty has been prepared to comply with the disclosure requirements of the federal Magnuson-Moss Warranty-Federal Trade Improvement Act (15 U.S.C. § 2301, as amended). With respect to any Appliances finally determined by a court to be within this Limited Warranty described above, all implied warranties are limited in duration to the period of the Limited Warranty. This includes, without limitation, the implied warranties of merchantability and fitness for a particular purpose if created or recognized in New York. Some states do not allow limitations on how long an implied warranty lasts or the exclusion or limitation of incidental or consequential damages so the above limitation may not apply to Purchaser. This Limited Warranty gives specific legal rights, and Purchaser may also have other rights which vary from state to state.
 - (d) No Other Representations. PURCHASER REPRESENTS THAT PURCHASER HAS READ THIS PURCHASE AGREEMENT AND THE PROVISIONS REFERRED TO ABOVE AND, NO OTHER AGREEMENT, PROMISES, REPRESENTATIONS OR WARRANTIES, EXCEPT THOSE EXPRESSLY SET FORTH IN THIS PURCHASE AGREEMENT IN WRITING, HAVE BEEN MADE BY SELLER OR ITS SALESMEN, AGENTS OR EMPLOYEES TO PURCHASER. PURCHASER ACKNOWLEDGES THAT HE/SHE IS NOT RELYING UPON ANY STATEMENT, REPRESENTATION, OR WARRANTY NOT SET FORTH IN WRITING IN THIS PURCHASE AGREEMENT. FURTHER, SELLER MAKES NO REPRESENTATIONS AS TO THE EXISTENCE, PRESERVATION OR PERMANENCE OF ANY VIEW OR VISTA FROM THE CLUB UNIT. PURCHASER ACKNOWLEDGES THAT NO SALES COUNSELOR, EMPLOYEE, AGENT OF SELLER OR BROKER HAS AUTHORITY TO MODIFY THE TERMS HEREOF OR TO MAKE ANY AGREEMENTS, REPRESENTATIONS, WARRANTIES OR PROMISES REGARDING THE CLUB UNIT, THE CONDOMINIUM, THE SURROUNDING PROPERTIES, OR ANY OTHER ITEM RELATING TO THIS PURCHASE AGREEMENT, UNLESS THE SAME ARE EXPRESSLY SET FORTH IN THIS PURCHASE AGREEMENT.
 - (e) Acknowledgment; Survival of Covenants. Purchaser hereby acknowledges and accepts the foregoing disclaimers and agrees to waive any and all rights Purchaser may have by virtue of the representations and warranties disclaimed. Except as otherwise provided in the Limited Warranty, Purchaser assumes the risk of damage occurring in the Club Unit after the Closing regardless of the cause. The provisions of this Paragraph 27 shall survive Closing.
28. Waiver of Jury Trial. BY SIGNING THIS PURCHASE AGREEMENT, EACH PARTY AGREES TO HAVE ANY LITIGATION OR OTHER LEGAL PROCEEDING ARISING OUT OF OR IN CONNECTION WITH THIS PURCHASE AGREEMENT, THE CLUB INTEREST, THE CLUB DOCUMENTS, THE CONDOMINIUM DOCUMENTS DECIDED BY A COURT SITTING WITHOUT A JURY, AND THE PARTIES WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO HAVE ANY AND ALL DISPUTES UNDER THIS PURCHASE AGREEMENT DECIDED BY A JURY.
29. Attorneys' Fees and Costs. In the event of any litigation, arbitration, or other legal proceeding between Purchaser and Seller to enforce this Purchase Agreement or related documents, the prevailing party will be entitled to recover and shall be awarded all costs and reasonable attorneys' fees from the non-prevailing party and such amounts will be included in any judgment or award obtained.
30. Severability. If any non-material provision of this Purchase Agreement is determined to be invalid or unenforceable under applicable law, it will be stricken from this Purchase Agreement and will in no way affect the other provisions of this Purchase Agreement. This Purchase Agreement will remain in full force and effect and will be construed in all respects as if the invalid or

unenforceable non-material provision was intentionally omitted. If any material provision of this Purchase Agreement is declared invalid or unenforceable, Seller shall have the right to terminate this Purchase Agreement in its sole and absolute discretion.

31. **Termination of Agreement with Blocked Persons.** Pursuant to United States Presidential Executive Order 13224 (the "Executive Order"), Seller is required to ensure that Seller does not transact business with persons or entities determined to have committed, or to pose a risk of committing or supporting, terrorist acts and those identified on the list of Specially Designated Nationals and Blocked Persons (the "List"), generated by the Office of Foreign Assets Control of the U.S. Department of the Treasury. The names or aliases of these persons or entities ("Blocked Persons") are updated from time to time. In the event Seller learns that Purchaser's name (or Purchaser's assigned party's name) appears on the List, Seller reserves the right to delay the Closing pending Seller's investigation into the matter. If Seller is advised and/or determines that Purchaser (or Purchaser's assigned party) is a Blocked Person, Seller reserves the right to terminate this Purchase Agreement and/or to take all other actions necessary to comply with the requirements of the Executive Order. The provisions of this paragraph will survive Closing and/or termination of this Purchase Agreement.
32. **Assignment.** This Purchase Agreement is personal to Purchaser and may not be assigned by Purchaser to any unrelated third party prior to Closing. This Purchase Agreement may be assigned by Purchaser to a related party only with Seller's written approval, prior to the assignment, which approval shall not be unreasonably withheld. Seller shall not unreasonably withhold its consent if the proposed assignment is to a person related to Purchaser or to an entity in which Purchaser has a significant economic interest, provided Purchaser shall not be released by such assignment. In any event, however, Seller reserves the right to withhold approval of an assignment to any person or entity whose name appears on the List as defined in Paragraph 31 of this Purchase Agreement in Seller's sole and absolute discretion.
33. **Governing Law.** This Purchase Agreement will be governed by, construed and enforced in accordance with, the laws of New York. Jurisdiction and venue will be proper only in the County of New York.
34. **Seller's Right of First Refusal before Resale.** For three (3) years from the Closing Date, Purchaser is required to offer Purchaser's Club Interest(s) to Seller upon the same terms and conditions (including financing) as offered by or to a bona fide third party before Purchaser may resell, transfer or assign the Purchaser's Club Interest to a bona fide third party. This restriction shall not apply to transfers, assignments or sales to members of Purchaser's immediate family or other entities related to Purchaser, such as affiliates or subsidiaries. Further, this restriction shall not apply to the mortgage, collateral grant, pledge, hypothecation, collateral assignment of the Club Interest for the purpose of securing purchase money financing nor to any subsequent transfer by foreclosure, by similar proceeding or by deed in lieu of same. Purchaser must notify Seller in writing no less than thirty (30) days in advance of any proposed Closing date, of Purchaser's intention to sell the Club Interest and must include a copy of the fully executed contract for sale. Seller shall notify Purchaser within ten (10) days of receipt of such notice and written contract whether Seller wishes to exercise its right of first refusal. If Seller elects to exercise its right of first refusal, the Seller's purchase of Purchaser's Club Interest shall be closed no later than thirty (30) days of the date that Seller's response is mailed to Purchaser, unless both parties agree to an extended date. If the sale of the Club Interest fails to close, through no fault of the Seller, this restriction shall continue and be binding on Purchaser, pursuant to this Purchase Agreement. If Seller fails to timely notify Purchaser of its election to exercise its right to purchase, Purchaser may consummate its sale with the bona fide third party. This provision shall survive Closing and shall bind any of Purchaser's immediate family or related entities to whom title is transferred.
35. **The St. Regis Name and License.** The Club Manager has a licensing arrangement with The Sheraton Corporation ("Licensor") to use the name "St. Regis" ("Club Licensing Arrangement"). As a consequence, the Plan of Club Ownership and the Club Property will be designated with the St. Regis name during the term of the Club Licensing Arrangement and the Plan of Club Ownership and the Club Property will be operated, managed and maintained according to the standards established by Licensor to protect its service mark and trademark ("St. Regis Standards"). The fees, costs, and expenses incurred by the Club Manager to maintain the affiliation with Licensor under the Club Licensing Arrangement are part of the Club Expenses. The Club Licensing Arrangement may be terminated, resulting in the removal of the St. Regis designation from the plan of Club Ownership and the Club Property (with or without the St. Regis designation remaining in connection with operation of the hotel within the Condominium), if: (a) the Club Manager's management contract is terminated for any reason; (b) the plan of Club Ownership or the Club Property is not managed, operated, and maintained in a manner consistent with the St. Regis Standards (which could occur, among other reasons, if budget constraints imposed by the Club Association prevent Club Manager from so managing); (c) licensing fees are not paid as required by the Club Licensing Arrangement; (d) the Club Licensing Arrangement is terminated; (e) the Club Licensing Arrangement expires by its own terms and is not renewed; or (f) if customary business defaults occur. Upon certain breaches or termination events under the Club Licensing Arrangement, liquidated damages may be incurred as an expense of the Club Association. The license to use the name "St. Regis" is not part of the Plan of Club Ownership, the Club Property or the Condominium Property. The Club Association and the Club Members do not have any right, title, or interest in the name "St. Regis" or in any licensing arrangement. Purchaser may use the condominium name for the resale or rental of a Club Interest, but it is strictly prohibited from using the St. Regis name or marks in connection with the resale or rental of a Club Interest through any entity other than Seller, Club Manager or their affiliates. In addition to the Club Licensing Arrangement, a similar licensing arrangement between St. Regis and Seller with respect to the operation of certain property, which has not been declared to the Club Property or the Condominium Property, may exist.
36. **Damage Before Closing.** If prior to Closing, the Club Unit shall be destroyed or damaged by fire or other casualty, Seller shall repair the damage to the Club Unit or may terminate this Purchase Agreement and refund all monies paid by Purchaser. This

Purchase Agreement shall remain in full force and effect, and the Closing shall be delayed as necessary to allow the completion of such repair.

37. **Seller Changes to Club Documents.** Seller reserves the right to modify and amend the Club Documents at any time and from time to time prior to Closing as Seller may deem necessary or advisable, including without limitation for the following reasons: to make any necessary corrections to comply with the laws of any jurisdiction or to meet the requirements of any governmental agency (whether federal, state, local or foreign), to meet the requirements of any lending institutions or marketing programs; provided that, in each event, such modifications or amendments do not materially adversely affect the value of the Club Interest. Purchaser acknowledges that Seller has reserved rights, at any time after Closing, to amend the Club Documents in the exercise of Seller's Special Rights set forth in the Club Declaration or to amend the Club Documents to comply with the real estate laws of any jurisdiction or the requirements of any governmental agency (whether federal, state, local or foreign).
38. **Additions and Addenda.** This Purchase Agreement includes the following additional provisions and all addenda attached hereto specifically listed below, if any, all of which are incorporated herein by this reference.

Purchaser has read this Purchase Agreement, acknowledges receipt of a copy of it, and agrees to all the terms, conditions and provisions herein. Purchaser and Seller executed this Purchase Agreement as of the _____ day of _____.

SELLER:

ST. REGIS RESIDENCE CLUB, NEW YORK INC.,
a Florida corporation

By: _____
Authorized Representative

Acceptance Date: _____

PURCHASER MAY CANCEL THIS PURCHASE AGREEMENT AT WILL AND WITHOUT EXPLANATION WITHIN SEVEN (7) BUSINESS DAYS AFTER PURCHASER SIGNS THE PURCHASE AGREEMENT, IN WHICH EVENT PURCHASER WILL RECEIVE A FULL REFUND. SEE PAGE 1 OF THE OFFERING PLAN.

PURCHASER(S):

Date

Date

Date

Date

EXHIBIT "A"

Club Unit No.: _____

Accommodation Type: _____

Club Week: _____ ("Fixed Time")

Assigned Priority Designation: _____

SCHEDULE "A"PERMITTED ENCUMBRANCES

1. Building restrictions and zoning and other regulations, resolutions and ordinances and any amendments thereto now or hereafter adopted.
2. Any state of facts shown on a survey of the Property, provided such state of facts would not prevent the use of the Club Unit for its permitted purposes.
3. Any state of facts which an accurate survey of the Club Unit would show, provided such state of facts would not prevent the use of the Club Unit for its permitted purposes.
4. The terms, burdens, covenants, restrictions, conditions, easements and rules and regulations, all as set forth in the Condominium Documents, the Condominium Power of Attorney from the Purchaser to the Condominium Board, and the Floor Plans as all of the same may be amended from time to time.
5. The terms, burdens, covenants, restrictions, conditions, easements and rules and regulations, all as set forth in the Club Documents and the Club Power of Attorney from Purchaser to the Club Board, as the same may be amended from time to time.
6. Consents by Seller or any former owner of the Land for the erection of any structure or structures on, under or above any street or streets on which the Property may abut.
7. Any easement or right of use in favor of any utility company for construction, use, maintenance or repair of utility lines, wires, terminal boxes, mains, pipes, cables, conduits, poles and other equipment and facilities on, under and across the Property.
8. Revocability of licenses for vault space, if any, under the sidewalks and streets.
9. Encroachments of stoops, areas, cellar steps or doors, trim, copings, retaining walls, bay windows, balconies, sidewalk elevators, fences, fire escapes, cornices, foundations, footings and similar projections, if any, on, over, or under the Property or the streets or sidewalks abutting the Property, and the rights of governmental authorities to require the removal of any such projections and variations.
10. Leases and service, maintenance, employment, concessionaire and license agreements, if any, of the Club Unit, or other Club Units or portions of the Common Elements or Common Areas.
11. The lien of any unpaid Club Charge, real estate tax, water charge or sewer rent, or vault charge, provided the same are adjusted at the closing of title.
12. The lien of any unpaid assessment payable in installments (other than assessments levied by the Condominium Board or the Club Board), except that Seller shall pay all such assessments due to the Club Board prior to the Closing Date (with the then current installment to be apportioned as of the Closing Date) and the Purchaser shall pay all assessments due from and after the Closing Date.
13. Any declaration or other instrument affecting the Property which Declarants deem necessary or appropriate to comply with any Law, ordinance, regulation, zoning resolution or requirement of the Department of Buildings, the City Planning Commission, the Board of Standards and Appeals, or any other public authority, applicable to the demolition, construction, alteration, repair or restoration of the Building.
14. Any encumbrance as to which Purchaser's title company (a New York Board of Title Underwriters member title insurance company which insures the Purchaser's title to the Club Interest) would be willing, in a fee policy issued by it to the Purchaser, to insure the Purchaser that such encumbrance (a) will not be collected out of the Club Unit or the Club Interest if it is a lien or (b) will not be enforced against the Club Unit or the Club Interest if it is not a lien.
15. Any other encumbrance, covenant, easement, agreement, or restriction against the Property other than a mortgage or other lien for the payment of money, which does not prevent the use of the Club Unit for its permitted purposes.
16. Any violations against the Property which is the obligation of the Condominium Board, Club Board or Unit Owners or Club Members to correct.

SCHEDULE "B"DISCLOSURE OF INFORMATION ON LEAD-BASED PAINT AND/OR LEAD-BASED PAINT HAZARDS

LEAD WARNING STATEMENT

Every Purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The Seller of any interest in residential real property is required to provide buyer with information on lead-based paint hazards from risk assessments or inspections in the Seller's possession and notify the buyer of any known lead-based hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

SELLER'S DISCLOSURE

- (a) Presence of lead-based paint and/or lead-based paint hazards. (check (i) or (ii) below)
- (i) _____ Known lead-based paint and/or lead-based paint hazards are present in the housing (explain on attached sheet).
- (ii) X Seller has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.
- (b) Records and reports available to Seller (check (i) or (ii) below):
- (i) X Seller has provided Purchaser with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (See the Lead-Based Paint Survey dated May 31, 2005 prepared by Atlantic Environmental Incorporated).
- (ii) _____ Seller has no records or reports pertaining to lead-based paint and/or lead-based paint hazards in the housing.

PURCHASER'S ACKNOWLEDGEMENT (initial)

- (c) _____ Purchaser has received copies of all information listed above.
- (d) X Purchaser has received the pamphlet Protecting Your Family from Lead in Your Home.
- (e) _____ Purchaser has (check (i) or (ii) below):
- (i) _____ Received a 10-day opportunity (or mutually agreed upon period) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards; or
- (ii) _____ Waived the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

SELLING AGENT'S ACKNOWLEDGMENT (initial)

- (f) N/A Selling Agent has informed Seller of Seller's obligation under 42 U.S.C. 4852d and is aware of Selling Agent's independent responsibility to ensure compliance.

CERTIFICATE OF ACCURACY

The following parties have reviewed the information above and certify, to their best of their knowledge, that the information they have provided is true and accurate.

SELLER:

ST. REGIS RESIDENCE CLUB, NEW YORK INC.,
a Florida corporation

PURCHASER(S):

By: _____
Authorized Signatory

Date: _____

Date: _____

DEED

BARGAIN AND SALE DEED WITH COVENANTS

THIS INDENTURE, made as of _____, between St. Regis Residence Club, New York Inc., having an office c/o Starwood Vacation Ownership, Inc., 8801 Vistana Centre Drive, Orlando, Florida 32821 ("Grantor") and

_____, ("Grantee"), having an address c/o Fifth and Fifty-Fifth Residence Club, Two East 55th Street, New York, New York 10022.

WITNESSETH:

That the Grantor, in consideration of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration paid by the Grantee, does hereby grant and release unto the Grantee, the heirs or successors and assigns of the Grantee, forever:

An undivided 4/52 ownership interest ("Club Interest") as tenant-in-common with other owners in the Club Unit ("Club Unit") known as Club Unit _____ in the building ("Building") known as the Fifth and Fifty-Fifth Condominium ("Condominium") and by the street number Two East 55th Street, Borough of Manhattan, County of New York, City and State of New York, such Club Unit being designated and described by the above Club Unit designation in a certain Declaration of Condominium dated _____, made by SLT Palm Desert L.L.C., SLT Realty Limited Partnership, Prudential HEI Joint Venture and SLT St. Louis, L.L.C. ("Declarants") pursuant to Article 9-B of the Real Property Law of the State of New York ("Condominium Act") establishing a plan for condominium ownership of the Building and the land ("Land") upon which the Building is situate (which Land is more particularly described in Exhibit "A" annexed hereto and by this reference made a part hereof), which Declaration of Condominium was recorded in the New York County Office of the Register of the City of New York ("Register's Office") on _____, in CRFN # _____ as the same may have been or may in the future be amended ("Condominium Declaration"). The Club Unit is also designated as Tax Lot _____ in Block 1290 of Section 5 of the Borough of Manhattan on the Tax Map of the Real Property Assessment Department of the City of New York and on the Floor Plans of the Building, certified by Brennan Beer Gorman/Architects, LLP, on _____, and filed with the Real Property Assessment Department of The City of New York on _____, as Condominium Plan No. _____ and also filed in the Register's Office on _____, as Map No. _____ and CRFN # _____ as the same may have been or may in the future be amended.

TOGETHER with an undivided 4/52 Club Interest in the Club Unit's undivided _____% interest in the Common Elements (as such term is defined in the Condominium Declaration);

TOGETHER with the right to use the Club Unit for Club Week _____ ("Fixed Time Use") each Use Year and the right to use a Club Unit that is the same Club Unit Type as the Club Unit for up to fifteen (15) weekdays and six (6) weekend days each Use Year, with an Assigned Priority Designation of _____, all as defined in and subject to the Reservation Policies and Procedures for the Fifth and Fifty-Fifth Residence Club as the same may be amended from time to time ("Club Reservation Procedures");

TOGETHER with the appurtenances and all the estate and rights of Grantor in and to the Club Interest in the Club Unit;

TOGETHER with, and subject to, the rights, obligations, easements, restrictions and other provisions set forth in the Condominium Declaration, Floor Plans and the bylaws of the Condominium ("Condominium Bylaws"), as the same may be amended from time to time, all of which constitute covenants running with the Land and shall bind any Person having at any time any interest or estate in the Club Unit, as though recited and stipulated at length herein.

TOGETHER with, and subject to, the rights, obligations, easements, restrictions and other provisions set forth in a certain Declaration and Plan of Club Ownership for the Fifth and Fifty-Fifth Residence Club dated _____, made by Grantor establishing a plan for fractional or club ownership of certain of the Club Units in the Building, which declaration and plan of club ownership was recorded in the Register's Office on _____, in CRFN # _____, as the same may have been or may in the future be amended ("Club Declaration"), the bylaws ("Club Bylaws") of the Fifth and Fifty-Fifth Residence Club Association, Inc. ("Club Association"), the Club Reservation Procedures promulgated by the Club Board pursuant to the Club Declaration, as the same may have been or may in the future be amended, and the timeshare power of attorney delivered by Grantee to the Club Board to be recorded in the Register's Office ("Club Power of Attorney") all of which constitute covenants running with the Land and shall bind any Person having at any time any interest or estate in the Club Interest, as though recited and stipulated at length herein.

SUBJECT to such liens, agreements, covenants, easements, restrictions, consents and other matters of record as pertain to the Club Unit, the Club Interest, the Land and/or the Building (which Land and Building are collectively referred to as (the "Property")).

TO HAVE AND TO HOLD the same unto Grantee and the heirs or successors and assigns of Grantee forever.

If any provision of the Condominium Declaration or the Condominium Bylaws is invalid under, or would cause the Condominium Declaration or the Condominium Bylaws to be insufficient to submit the Property to, the provisions of the Condominium Act, or if any provision which is necessary to cause the Condominium Declaration and the Condominium Bylaws to be sufficient to submit the Property to the provisions of the Condominium Act is missing from the Condominium Declaration or the Condominium Bylaws, or if the Condominium Declaration and the Condominium Bylaws are insufficient to submit the Property to the provisions of the Condominium Act, the applicable provisions of the Condominium Declaration shall control.

Except as otherwise specifically permitted by the Condominium Board or the Club Board or provided in the Condominium Declaration, the Condominium Bylaws, the Club Declaration, the Club Bylaws or the Club Reservation Procedures, the Club Unit is intended for personal, recreational and other uses.

Grantor covenants that Grantor has not done or suffered anything whereby the Club Interest has been encumbered in any way whatsoever, except as set forth in the Condominium Declaration, the Condominium Bylaws (and any Rules and Regulations adopted under the Condominium Bylaws), the Club Declaration, the Club Bylaws (and any Rules and Regulations adopted under the Club Bylaws), the Club Power of Attorney and the Club Reservation Procedures.

Grantor, in compliance with Section 13 of the Lien Law of the State of New York, covenants that Grantor will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the same for any other purposes.

Grantee accepts and ratifies the provisions of the Condominium Declaration, the Condominium Bylaws (and any Rules and Regulations adopted under the Condominium Bylaws), the Club Declaration, the Club Bylaws (and any Rules and Regulations adopted under the Club Bylaws) and the Club Reservation Procedures and agrees to comply with all the terms and provisions thereof.

Grantee waives any interest in the Club Unit and its undivided percentage interest in the Common Elements, other than the undivided tenant-in-common Club Interest specifically being conveyed herein.

This conveyance is made in the regular course of business actually conducted by Grantor.

The term "Grantee" shall be read as "Grantees" whenever the sense of this indenture so requires.

All capitalized terms used herein which are not separately defined herein shall have the meanings given to those terms in the Condominium Declaration, the Condominium Bylaws, the Club Declaration, the Club Bylaws or the Club Reservation Procedures, as the case may be.

IN WITNESS WHEREOF, Grantor and Grantee have duly executed this indenture as of the day and year first above written.

GRANTOR:

ST. REGIS RESIDENCE CLUB, NEW YORK INC.
a Florida corporation

By: _____
Name: _____
Title: _____

GRANTEE(S):

Name:

Name:

Name:

Name:

STATE OF NEW YORK

COUNTY OF NEW YORK

} SS.:

On _____, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that (he) (she) (they) executed the same in (his) (her) (their) capacity(ies), and that by (his) (her) (their) signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

STATE OF NEW YORK

COUNTY OF _____

} SS.:

On the _____, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that (he) (she) (they) executed the same in (his) (her) (their) capacity(ies), and that by (his) (her) (their) signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

State, District of Columbia, Territory, Possession, or Foreign Country*

(_____) SS.:

On _____, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that (he)(she)(they) executed the same in (his)(her)(their) capacity(ies), that by (his)(her)(their) signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual made such appearance before the undersigned in the _____.* (Insert the city or other political subdivision and the state or country or other place the acknowledgment was taken).

Notary Public

EXHIBIT "A"
TO DEED

DESCRIPTION OF THE LAND

The Land upon which the Building containing the Club Unit is situate is described as follows:

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, City, County and State of New York, bounded and described as follows:

BEGINNING at the corner formed by the intersection of the easterly side of Fifth Avenue with the southerly side of East 55th Street;

RUNNING THENCE easterly along the southerly side of East 55th Street, 249.6 feet;

THENCE southerly and parallel with Fifth Avenue, 100.5 feet to the center line of the block;

THENCE westerly along the center line of the block and parallel with East 55th Street, 149.6 feet;

THENCE northerly and parallel with Fifth Avenue, 25 feet;

THENCE westerly and parallel with East 55th Street, 100 feet to the easterly side of Fifth Avenue;

THENCE northerly along the easterly side of Fifth Avenue, 75.5 feet to the point or place of BEGINNING.

CLUB DECLARATION

DECLARATION AND PLAN OF CLUB OWNERSHIP
FOR
FIFTH AND FIFTY-FIFTH RESIDENCE CLUB

TWO EAST 55th STREET
NEW YORK, NEW YORK 10022

Dated: _____

The land affected by the within instrument lies in
Section 5, Block 1290, f/n/a Lot 69, n/k/a Lots _____
on the Tax Map of the Borough of Manhattan,
County of New York, City of New York

Record and Return to:

Allan Starr, Esq.
Starr Associates LLP
245 Fifth Avenue
Suite 1102
New York, New York 10016
(212) 620-2686

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Exhibit

- A – Description of Land
- B – Schedule of Club Units
- C – Definitions
- D – Club Power of Attorney

**DECLARATION AND PLAN OF CLUB OWNERSHIP
FOR
FIFTH AND FIFTY-FIFTH RESIDENCE CLUB**

THIS DECLARATION AND PLAN OF CLUB OWNERSHIP FOR FIFTH AND FIFTY-FIFTH RESIDENCE CLUB ("Club Declaration") dated _____, shall be effective upon recordation and is made by St. Regis Residence Club of New York, Inc., a Florida Corporation ("Sponsor"). Sponsor hereby makes the following grants, submissions, and declarations:

**ARTICLE I
IMPOSITION OF COVENANTS**

Section 1.1 Purpose

The purpose of this Club Declaration is to submit the Club Property to a Plan of Fractional or Club Ownership known as Fifth and Fifty-Fifth Residence Club ("Club"), to establish a uniform plan for the development, sale and ownership of the Club Units, to protect the value and desirability of the Club, to create a harmonious and attractive development, and to promote and safeguard the health, comfort, safety, convenience, and welfare of the Club Members. The Club is located in a mixed-use property which includes lodging and commercial enterprise within the control of the Commercial Unit Owners.

Section 1.2 Description of Land

Set forth on Exhibit A annexed hereto is a description of land in Section 5 of the Borough of Manhattan on the tax map of the Real Property Assessment Department of the City of New York in Block 1290, Lot 69 upon which the Club Property is located.

Section 1.3 Covenants Running With the Land

All provisions of this Club Declaration shall be deemed to be covenants running with the land, or as equitable servitudes, as the case may be. The benefits, burdens, and other provisions contained in this Club Declaration shall be binding upon and shall inure to the benefit of Sponsor, all Club Members, their respective heirs, executors, administrators, personal representatives, successors, assigns and Permitted Users.

Section 1.4 Submission of Club Property

Sponsor is the owner of certain Club Units described on Exhibit B annexed hereto. Sponsor hereby submits the Club Units and the furnishings and equipment contained therein to the terms of this Club Declaration. All Club Units set forth on Exhibit B and any additional Club Units which may be submitted in the future from time to time shall be held, transferred, sold, conveyed, leased, mortgaged occupied and otherwise dealt with subject to all the covenants, terms, conditions, restrictions, reservations, charges and liens of this Club Declaration.

ARTICLE 2 DEFINITIONS

All capitalized terms used in this Club Declaration that are not otherwise defined in the Articles hereof shall have the meanings set forth in Exhibit C annexed hereto, unless the context in which they are used shall otherwise require. Each of the capitalized terms shall be applicable to singular and to plural nouns, as well as to verbs of any tense.

ARTICLE 3 CLUB MEMBER'S RIGHTS IN COMMON ELEMENTS

Every Club Member shall have a non-exclusive right of access over, across, and upon any portion of the Common Elements designated for common pedestrian use (but specifically excluding, without limitation, Common Elements designated for maintenance, storage, utility installations and service areas), which includes the benefit of a non-exclusive easement of access over, across, and upon a portion of the Hotel Limited Common Elements as provided for in the Condominium Declaration for the purpose of access to and from a Club Unit from public ways for pedestrian travel, which right and easement shall be appurtenant to and pass with the transfer of title to each Club Interest; provided, however, that such right and easement shall be subject to the following:

- (a) the covenants, conditions, restrictions, easements, reservations, rights-of-way, and other provisions contained in this Club Declaration; and
- (b) the right of the Club Association to adopt, from time to time, any and all rules and regulations concerning the Club Property as the Club Association may determine is necessary or prudent for the management, preservation, safety, control, and orderly operation of the Club Property for the benefit of all Club Members, and for facilitating the greatest and most convenient availability and use of the Club Units and Common Elements by Club Members.

ARTICLE 4 PLAN OF CLUB OWNERSHIP

Section 4.1 Conveyance by Purchaser

Each Club Interest shall constitute an estate in real property separate and distinct from all other Club Interests in the Club Unit and other Club Units, which estate may be separately conveyed and encumbered. A purchaser may acquire more than one Club Interest and thereafter convey or encumber each Club Interest so acquired separately. In no event, however, shall an owner of a Club Interest convey or encumber less than a Club Interest, or attempt to subdivide a Club Interest into lesser interests. In the event all Club Interests in a Club Unit are acquired by one owner, such Club Unit may, at such owner's election and with the written consent of the Club Association and Sponsor, be withdrawn from the Club.

The Club Member's undivided interest as tenant-in-common in the Club Unit shall be based on the total undivided interest assigned to the Club Member as recited in Sponsor's deed conveying the Club Interest.

After this Club Declaration is recorded in the Register's Office, every contract for sale, deed, lease, mortgage, trust deed, or other instrument relating to a Club Interest will legally describe the Club Interest in the same manner as the original conveyance.

Section 4.2 Administration and Management

The administration and management of the Club Units shall be performed by the Club Association. The Club Association shall have all powers necessary or desirable to effectuate any of the purposes provided for herein. An owner of a Club Interest shall be a member of the Club Association and shall remain a member for the period of the Club Member's ownership.

Section 4.3 Acceptance of Club; Enforcement; Indemnification

By acceptance of a deed to a Club Interest, an owner of a Club Interest agrees to be bound by the terms and conditions of this Club Declaration, specifically including, but not limited to, the provisions of the Club Documents. In addition to all remedies provided to the Club Association in this Club Declaration, the Club Association shall also have the following special remedies with respect to any Club Member who fails to pay Club Charges or is otherwise in default of any provision of the Club:

(a) In the event any Club Member, or any Permitted User, fails to vacate a Club Unit after termination of Club Member's Club Weeks or otherwise uses or occupies or prevents another Club Member (or Permitted User) from using or occupying a Club Week, that Club Member shall be in default hereunder and the Club Member or Permitted User shall be subject to immediate removal, eviction or ejection from the Club Unit wrongfully occupied; shall be deemed to have waived any notices required by law with respect to any legal proceedings regarding the removal, eviction or ejection; and shall pay to the Club Member entitled to use the Club Unit during such wrongful occupancy, as liquidated damages for the wrongful use of the Club Unit, a sum equal to two hundred percent (200%) of the fair rental value per day for the Club Unit wrongfully occupied as determined by the Club Association in its sole discretion for each day, or portion thereof, including the day of surrender, during which the Club Member wrongfully occupies a Club Unit, plus all Costs of Enforcement which amounts may be collected by the Club Association in the manner provided herein for the collection of Club Charges.

(b) Any Club Member who suffers or allows a mechanics' lien or other lien to be placed against the Club Member's Club Interest or the entire Club Unit shall indemnify, defend and hold each of the other Club Members harmless from and against all liability or loss arising from the claim or such lien. The Club Association may enforce such indemnity by collecting from the Club Member who suffers or allows such a lien the amount necessary to discharge the lien and all Costs of Enforcement incidental thereto. If such amount is not promptly paid, the Club Association may collect the same in the manner provided herein for the collection of Club Charges.

(c) Upon written notice, withhold use or possession of the Club Member's Club Interest during the Club Week, prohibit the Club Member from making any reservation pursuant to the Club Reservation Procedures and cancel any reservation previously made by the Club Member and rent any Club Week to which a Club Member is entitled and apply the proceeds thereof against amounts owed by such Club Member.

(d) Upon written notice to any delinquent Club Member of its intent to do so, suspend all of such Club Member's rights and privileges as a member of the Club Association, including but not limited to, the right to participate in any vote or other determination provided for in the Club Documents.

(e) Except as to a transfer to a Permitted Mortgagee by foreclosure or deed in lieu of foreclosure, no transfer of a Club Interest shall be permitted unless and until the proposed transferor is current as to all Club Charges due to the Club Association and is otherwise not in default under any other provision of this Club Declaration. Any purported transfer of a Club Interest while a Club Member is delinquent or is in default on any other obligation shall be null and void.

(f) The Club Board may from time to time, without the consent of the Club Members or Permitted Mortgagees, amend the Club Reservation Procedures to include, by way of enumeration and without limitation, one or more of the following features.

(i) A preferential reservation system for holidays, such as New Year's Day, Martin Luther King Jr. Day, Presidents Weekend, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving, Christmas or other holiday period which allocates the opportunity to reserve the more popular holidays among Club Members;

(ii) A procedure for determining priority of reservation by lot, drawing, rotation, first come, first served, or otherwise on an annual or rotating basis;

(iii) Restrictions on use and occupancy of a Club Week if a Club Member is not current on Club Charges or is otherwise in violation of the provisions of the Club Documents;

(iv) Penalties, including forfeitures of reservation rights for the calendar year, for untimely cancellations or reservations;

(v) A schedule of fees to be separately charged to Club Members who use a portion of a Club Week to cover the additional expenses of such use, including but not limited to, additional administrative, janitorial and maid service costs;

(vi) Such other conditions, restrictions and limitations as the Club Board shall deem necessary under the circumstances to assure a manageable and fair system.

(g) Error by Club Association. In the event an error by the Club Association or Club Manager deprives the rightful Club Member or Permitted User of the use and occupancy of a Club Unit during a Club Week to which the Club Member or Permitted User has a confirmed reservation, the Club Association shall provide such Club Member or Permitted User a comparable Club Unit or pay the cost of alternate lodging for the rightful Club Member and their guests for so many twenty-four (24) hour days or parts thereof as such rightful Club Member or Permitted User and their guests have been deprived of the use and occupancy of the Club Unit. The cost thereof shall be included in the Club Charges, unless chargeable to the Club Manager pursuant to its contract for services.

Section 4.4 Combination and Reconveyance

So long as Sponsor may exercise any Special Sponsor Right pursuant to this Club Declaration, there is hereby reserved to Sponsor, and thereafter to the Club Association, the right (but not the obligation) to change the Club Weeks assigned to Club Interests upon the request of any two or more Club Members. Each reassignment shall be accomplished by conveyance of the Club Interests involved to Sponsor or the Club Association followed by reconveyance of such Club Interests to the Club Members with the Club Weeks reassigned as requested. All costs and expenses, including attorneys' fees, or such reassignment shall be paid by the Club Members requesting it.

ARTICLE 5

MEMBERSHIP AND VOTING RIGHTS IN CLUB ASSOCIATION

Section 5.1 Club Association Membership

The Club Articles shall be filed no later than the date the first Club Interest is conveyed to a purchaser. Every Club Member shall be a member of the Club Association and shall remain a member for the period of the

Club Member's ownership of a Club Interest. No Club Member, whether one or more Persons, shall have more than one membership per Club Interest owned, but all of the Persons owning a Club Interest shall be entitled to rights of membership and of use and enjoyment appurtenant to Club Membership. Club Members are strictly prohibited from subdividing a Club Interest. Membership in the Club Association shall be appurtenant to, and may not be separated from, a Club Interest. If title to a Club Interest is held by more than one Person or any combination of Persons, such Persons shall appoint and authorize one Person or alternate Persons to singly represent the owners of the Club Interest. Such representative shall be a natural person who is a Club Member, or a designated board member, officer or other authorized representative of a corporate Club Member, or a general partner of a partnership Club Member, or a comparable representative of any other entity, and such representative shall have the power to cast votes on behalf of the Club Members as a member of the Club Association, and serve on the Club Board if elected, subject to the provisions of and in accordance with the procedures more fully described in the Club By-Laws. The Primary User of the Club Unit is the Person entitled to cast the vote allocated to the Club Interest in accordance with the provisions of the Club By-Laws.

Section 5.2 Voting Rights and Meetings

Each Club Interest shall have one (1) vote; provided, however, no vote allocated to a Club Interest owned by the Club Association may be cast. A meeting of the Club Association shall be held at least once each year. Special meetings of the Club Association may be called by the President, by a majority of the Club Board, or by Club Members other than Sponsor having five percent (5%) of the total voting power of the Club Association. Not less than thirty (30) and no more than fifty (50) days in advance of any meeting, the Secretary or other officer specified in the Club By-Laws shall cause notice to be hand delivered or sent prepaid by United States mail to the mailing address of each Club Member. The notice of any meeting must state the time and place of the meeting and the items on the agenda including the general nature of any proposed amendment to this Club Declaration or the Club By-Laws, any budget changes, and any proposal to remove an officer or member of the Club Board. Unless the Club By-Laws provide for a lower percentage, a quorum is deemed present throughout any meeting of the Club Association if Persons entitled to cast thirty percent (30%) of the voting power which may be cast for election of the Club Board are present, in person or by proxy at the beginning of the meeting.

Voting by proxy shall be permitted. In order to effectuate representation of the Club Members in the Club Association, each Club Member, by accepting a deed to a Club Interest, shall be deemed to have appointed the Club Board as such Club Member's attorney-in-fact and proxy to represent such Club Member at any and all regular and special meetings of the Club Association, and thereat to cast the vote(s) of such Club Member; provided, however, that any Club Member may revoke this appointment as to any individual meeting by appearing at the meeting and casting Club Member's allotted vote(s) on Club Member's own behalf.

Section 5.3 Club Member's and Club Association's Addresses for Notices

All Club Members shall have one and the same registered mailing address to be used by the Club Association or other Club Members for notices, demands, and all other communications regarding Club Association matters. The Primary User's address shall be used as the registered mailing address for all notices, demands and communications. Any notice shall be deemed duly given if delivered to the registered mailing address. All notices and demands intended to be served upon the Club Board shall be sent to the following address or such other address as the Club Board may designate from time to time by notice to the Club Member(s):

Club Board
Fifth and Fifty-Fifth Residence Club Association, Inc.
c/o Club Manager
8801 Vistana Centre Drive
Orlando, FL 32821

Section 5.4 Transfer Information

All Persons who acquire Club Interests(s) other than from Sponsor shall provide to the Club Association written notice of the Person's name, address, Club Interest owned, date of transfer, name and address of the Primary User and name of the former Club Member within ten (10) days of the date of transfer. The Person shall also provide a true and correct copy of the recorded instrument conveying or transferring the Club Interest or such other evidence of the conveyance or transfer as is reasonably acceptable to the Club Association. In addition, the Club Association may request such other information as the Club Association determines is necessary or desirable in connection with obtaining and maintaining information regarding conveyances and transfers of Club Interests. The Club Association or Club Manager shall have the right to charge the Person a reasonable administrative fee for processing the transfer in the records of the Club Association.

Section 5.5 Sponsor Control of the Club Association

There shall be a Sponsor Control Period of the Club Association, during which a Sponsor, or Persons designated by Sponsor, may appoint and remove the officers and members of the Club Board. The Sponsor Control Period shall commence upon the First Closing of a Club Interest and shall terminate on the earlier of:

- (a) sixty (60) days after conveyance by Sponsor of ninety percent (90%) of Club Interests to owners other than Sponsor; or
- (b) five (5) years after the First Closing of a Club Interest by Sponsor.

Sponsor may voluntarily surrender the right to appoint and remove officers and members of the Club Board before termination of Sponsor Control Period, but in that event Sponsor may require, for the duration of Sponsor Control Period, that specified actions of the Club Association, as described in a recorded instrument executed by Sponsor, be approved by Sponsor before they become effective.

Section 5.6 Required Election of Club Members

The initial Club Board shall consist of four (4) members.

The first annual meeting of the Club Members shall be held within one year after the First Closing of a Club Interest. During the Sponsor Control Period, all of the members of the Club Board shall be appointed by Sponsor. The Club Board shall elect the officers. The members of the Club Board and officers shall take office upon election or appointment.

Section 5.7 Removal of Members of the Club Board

Notwithstanding any provision of this Club Declaration or the Club By-Laws to the contrary, following notice and an opportunity to be heard as required by this Club Declaration, Club Members with a sixty-seven percent (67%) of the voting power of all Persons present and entitled to vote at a meeting of the Club Members at which a quorum is present, may remove a member of the Club Board, with or without cause, except for members appointed by Sponsor. Any director who is appointed by Sponsor may be removed by Sponsor at any time. Upon such removal, Sponsor shall appoint a replacement director and notify the remaining directors, if any, of such removal and appointment.

Section 5.8 Requirements for Turnover of Sponsor Control

Within sixty (60) days after the Club Members other than Sponsor elect a majority of the members of the Club Board, Sponsor shall deliver to the Club Association all property of the Club Members and of the Club Association held by or controlled by Sponsor, including without limitation the following items:

(a) the original or a certified copy of the recorded Club Declaration, as amended, the Club Articles, Club By-Laws, minute books, other books and records, and any Club Rules and Regulations which may have been promulgated;

(b) an accounting for Club Association funds and financial statements, from the date the Club Association received funds and ending on the date the Sponsor Control Period ends. The financial statements shall be audited by an independent certified public accountant and shall be accompanied by the accountant's letter, expressing either the opinion that the financial statements present fairly the financial position of the Club Association in conformity with generally accepted accounting principles or a disclaimer of the accountant's ability to attest to the fairness of the presentation of the financial information in conformity with generally accepted accounting principles and the reasons therefor. The expense of the audit shall not be paid for or charged to the Club Association;

(c) the Club Association funds or control thereof;

(d) all of Sponsor's tangible personal property that has been represented by Sponsor to be the property of the Club Association or all of Sponsor's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the Club, and inventories of such property, if any, and the bill(s) of sale from Sponsor to the Club Association evidencing transfer all personal property itemized on such inventories;

(e) a copy, for the non-exclusive use of the Club Association, of any plans and specifications used in the construction or renovation of the Club Property;

(f) all insurance policies then in force, in which the Club Members, the Club Association or the members of the Club Board and officers are named as insured persons;

(g) copies of any certificates of occupancy that may have been issued with respect to the Club Units;

(h) any other permits issued by governmental bodies applicable to the Club as a whole and which are currently in force or which were issued within one (1) year prior to the date on which Club Members other than Sponsor took control of the Club Association;

(i) written warranties of the contractor, subcontractors, suppliers, and manufacturers that are still effective;

(j) a roster of Club Members and First Mortgagees and their addresses and telephone numbers, if known, as shown on Sponsor's records;

(k) employment contracts in which the Club Association is a contracting party; and

(l) any service contract in which the Club Association is a contracting party or in which the Club Association or the Club Members have any obligation to pay a fee to the Persons performing the services.

ARTICLE 6

CLUB ASSOCIATION POWERS AND DUTIES

Section 6.1 Club Association Duties

Subject to the rights and obligations of Sponsor and other Club Members as set forth in this Club Declaration, the Club Association shall be responsible for the exclusive management, control, maintenance, repair, replacement, and improvement of the Club Property, and shall keep the same in good, clean, attractive, and sanitary condition, order, and repair. The expenses, costs, and fees of such management, operation, maintenance, and repair by the Club Association shall be part of the Club Charges, and prior approval of the Club Members shall not be required in order for the Club Association to pay any such expenses, costs, and fees. The Club Association shall establish and maintain, out of the installments of the annual Club Charges, a reserve account for maintenance, repair, or replacement of the Club Property that must be replaced on a periodic basis. The Club Association shall adopt and amend budgets for revenues, expenditures, and reserves which will be the basis for collection of Club Charges from Club Members. The Club Association shall keep financial records sufficiently detailed to enable the Club Association to comply with the requirement that it provide statements of status of Club Charges. All financial and other records of the Club Association shall be made reasonably available for examination by any Club Member and such Club Member's authorized agents.

Section 6.2 Club Association Powers

The Club Association shall have, subject to the limitations contained in this Club Declaration, the powers necessary for the administration of the affairs of the Club Association and the upkeep of the Club Property which shall include, but not be limited to, the power to:

- (a) exercise any powers conferred by this Club Declaration or the Club By-Laws;
- (b) exercise any other power that may be exercised in New York by legal entities of the same type as the Club Association;
- (c) exercise any other power necessary and proper for the governance and operation of the Club Association, and
- (d) exercise any other power necessary and proper for the governance and operation of the Condominium.
- (e) coordinate the plans of Club Members for moving their personal effects into and out of the Club Units with a view toward scheduling such moves so that there will be a minimum of inconvenience to other Club Members.
- (f) cause each Club Unit to be maintained in a first class manner and condition. The Club Association shall determine the color scheme, decor and furnishing of each Club Unit as well as the proper time for refurbishment, redecorating and replacement thereof.
- (g) acquire and hold title to all Club Unit Furnishings. The Club Association shall, on behalf of all Club Members, hold title in its name to all Club Unit Furnishings and no Club Member shall have any right, title or claim thereto and the Club Association shall have the right to deal with Club Unit Furnishings for all purposes.
- (h) bill each Club Member for the expense of occupancy of a Club Unit during Club Members' Club Weeks, which the Club Association determines are the individual expenses of the particular Club Member including, but not limited to, long-distance and other extraordinary telephone charges, extraordinary repairs or charges for damage to the Club Unit, its furniture, furnishings,

equipment, fixtures, appliances and carpeting caused by a Club Member or Club Member's guest, other charges rendered by the Club Manager on behalf of the particular Club Member, and janitorial and maid service in addition to the standard janitorial and maid service provided for each Club Week and included within the Club Charges.

(i) establish, subject to modification at any time, publish and administer a list of services to be offered by the Club Association to the Club Members, the cost of which shall be included in Club Charges.

(j) enter into license agreements and other similar agreements with respect to the operation, management, maintenance and benefits of the Club.

(k) collect Club Charges.

(l) establish, subject to modification at any time, publish and administer Club Reservation Procedures as provided for in this Club Declaration and such other rules and regulations as the Club Association deems necessary or desirable, specifically including but not limited to: (i) fines and restrictions on use and occupancy if a Club Member is not current on Club Charges or is otherwise in violation of this Club Declaration; and (ii) policies and procedures for the use of Club Units for transient accommodations or other income-producing purposes during periods of non-use by Club Members.

(m) prepare the Club Calendars which shall at all times establish the dates of each Club Week at least five (5) years into the future.

(n) enforce the remedies for non-payment of the Club Charges.

(o) enter into agreements for internal and external exchange programs and reciprocal sharing agreements with one or more other club associations, the cost of which shall be included in Club Charges.

Section 6.3 Actions by Club Board

Except as specifically otherwise provided in this Club Declaration or the Club By-Laws, the Club Board may act in all instances on behalf of the Club Association.

Section 6.4 Club Board Meetings

Without the necessity of giving prior notice to the Club Members, all meetings of the Club Board at which action is to be taken by vote will be open to the Club Members, except that meetings of the Club Board may be held in executive session(s) without the requirement that they be open to Club Members, upon approval of a majority of a quorum of the Club Board, in the following situations:

(a) matters pertaining to employees of the Club Association or involving the employment, promotion, discipline or dismissal of an officer, agent, or employee of the Club Association;

(b) consultation with legal counsel concerning disputes that are the subject of pending, threatened or imminent court proceedings or matters that are privileged or confidential between attorney and client;

(c) investigative proceedings concerning possible or actual criminal misconduct;

(d) matters subject to specific constitutional, statutory, or judicially imposed requirements protecting particular proceedings or matters from public disclosure;

(e) any matter the disclosure of which would constitute an unwarranted invasion of individual privacy, and

(f) matters pertaining to the Club Member who seeks access to such meeting.

Section 6.5 Right to Notice and Hearing

Whenever the Club Documents require that an action be taken after "notice and hearing", the following procedure shall be observed: The party proposing to take the action (e.g., the Club Board, a committee, an officer, etc.) shall give notice of the proposed action to all Club Members whose interests the proposing party reasonably determines would be significantly affected by the proposed action. The notice shall be delivered personally or mailed not less than three (3) days before the proposed action is to be taken. The notice shall include a general statement of the proposed action and the date, time and place of the hearing. At the hearing, the affected Person shall have the right, personally or by a representative, to give testimony orally, in writing or both, subject to reasonable rules of procedure established by the party conducting the hearing to assure a prompt and orderly resolution of the issues. Such evidence shall be considered in making the decision but shall not bind the decision makers. The affected Person shall be notified of the decision in the same manner in which notice of the hearing was given. Any Club Member having a right to notice and hearing shall have the right to appeal to the Club Board from a decision of a proposing party other than the Club Board by filing a written notice of appeal with the Club Board within ten (10) days after being notified of the decision. The Club Board shall conduct a hearing within forty-five (45) days, giving the same notice and observing the same procedures as were required for the original hearing.

Section 6.6 Reserve Account

The Club Association shall establish and maintain, as part of its budget and out of the installments of Club Charges, adequate reserve accounts for maintenance, repair or replacement of Club Property that must be replaced on a periodic basis, segregated by account ("Reserve Account"). The term Reserve Account shall also include funds received and not yet expended or disposed from either a compensatory damage award or settlement to the Club Association from any Person for injuries to property, real or personal, arising from any construction or design defects, which funds shall be separately itemized from all other Reserve Account funds.

In connection with the Reserve Account, the Club Board shall:

(a) Review a current reconciliation of the Club Association's Reserve Account on at least a quarterly basis.

(b) Review, on at least a quarterly basis, the current year's actual reserve revenues and expenses compared to the current year's budget.

(c) Review the latest account statements prepared by the financial institutions where the Club Association has its Reserve Account.

(d) Review an income and expense statement for the Club Association's Reserve Account on at least a quarterly basis.

The signatures of at least two persons, both of whom shall be members of the Club Board, or one of whom shall be an officer of the Club Association and one of whom shall be a member of the Club Board, shall be required for the withdrawal of moneys from the Club Association's Reserve Account.

The Club Board shall not expend funds designated as reserve funds for any purpose other than costs associated with the repair, restoration, replacement, or maintenance of, or litigation involving the repair, restoration, replacement or maintenance of, major components which the Club Association is obligated to repair, restore, replace, or maintain and for which the reserve fund was established. However, the Club Board may

authorize the temporary transfer of money from a reserve fund to the Club Association's general operating fund to meet short-term cash-flow requirements or other expenses provided the Club Board has made a written finding, recorded in the Club Board's minutes, explaining the reasons that the transfer is needed, and describing when and how the money will be repaid to the reserve fund. The transferred funds shall be restored to the reserve fund within one (1) year of the date of the initial transfer, except that the Club Board may, upon making a finding supported by documentation that a temporary delay would be in the best interests of the Club, temporarily delay the restoration. The Club Board shall exercise prudent fiscal management in maintaining the integrity of the Reserve Account, and shall, if necessary, levy a special Club Charge to recover the full amount of the expended funds within the time limits required by this subsection. The Club Board may, at its discretion, extend the date the payment on the special Club Charge is due. Any extension shall not prevent the Club Board from pursuing any legal remedy to enforce the collection of an unpaid special Club Charge.

When the decision is made to use reserve funds or to temporarily transfer money from the reserves fund to pay for litigation, the Club Association shall notify the members of the Club Association of that decision in the next available mailing to all Club Members, and of the availability of an accounting of those expenses. The Club Association shall make an account of expenses related to the litigation on at least a quarterly basis. The accounting shall be made available for inspection by Club Members at the Club Association's office.

ARTICLE 7 CLUB CHARGES

Section 7.1 Commencement of Annual Club Charges

Until the Club Association makes an assessed Club Charges to meet Club Expenses and Real Estate Taxes, Sponsor shall pay the portion of Club Expenses and Real Estate Taxes allocated to the Club Units. After any Club Charge has been made by the Club Association, Club Charges shall be made no less frequently than annually and shall be based on a budget adopted no less frequently than annually by the Club Association.

Section 7.2 Annual Club Charges

The Club Association shall levy annual Club Charges to pay for Club Expenses and Real Estate Taxes. The total annual Club Charges shall be based upon a budget of the Club Association's cash requirements for upkeep of the Club Property including Common Charges assessed to the Club pursuant to the Condominium Documents. Any surplus funds of the Club Association remaining after payment of or provision for Club Expenses and any prepayment of or provision for reserves shall be carried-over to the next fiscal year of the Club Association.

Club Charges may include, but is not limited to, the following:

- (a) the allocated share of the liability for the Common Expenses of the Condominium allocated to each Club Unit;
- (b) maintenance, and regularly scheduled cleaning and maid service and upkeep of the Club Unit;
- (c) repair and replacement of furniture, fixtures, appliances, carpeting, and utensils;
- (d) real and personal property taxes, if any, assessed against the Club Interests;
- (e) management fees assessed by Club Manager to cover the costs of operating a Club Unit which are in addition to the management fees set by Club Manager for management of the Club;

- (f) a reserve for refurbishment and/or replacement of Club Unit Furnishings;
- (g) premiums attributable to commercial general liability insurance coverage for death, bodily injury and property damage resulting from the use of a Club Unit;
- (h) amenities fees charged by the Hotel Unit Owner associated with access, use and enjoyment of amenities located in the Hotel Limited Common Elements; and
- (i) any other expenses incurred in the normal operation of the Club attributable to operation of the Club Property.

Section 7.3 Apportionment of Annual Club Charges

The total annual Club Charges for any fiscal year of the Club Association shall be assessed to the Club Interests in proportion to their Club Interest Allocation, subject to: (a) any Club Expense caused by the misconduct of any Club Member(s), which may be assessed exclusively or on such other equitable basis as the Club Board shall determine against such Club Member(s); and (b) any expenses which are charged equally to the Club Units. All Club Interest Allocations shall be made at the sole discretion of the Club Board.

Section 7.4 Special Club Charges

In addition to the annual Club Charges authorized above, the Club Board may at any time and from time to time determine, levy, and assess in any fiscal year special Club Charges applicable to that particular fiscal year (and for any such longer period as the Club Board may determine) for the purpose of defraying, in whole or in part, the unbudgeted costs, fees, and expenses of any construction, reconstruction, repair, demolishing, replacement, renovation or maintenance of the Club Property. Any amounts determined, levied, and assessed pursuant to this Club Declaration shall be assessed to the Club Interests and the same basis as regular Club Charges.

Section 7.5 Due Dates for Payments

The Club Charges which are to be paid in installments no less frequently than annually, shall be paid as determined by the Club Board and shall be due and payable to the Club Association at its office or as the Club Board may otherwise direct, without notice (except for the initial notice of any special Club Charges), on the first day of each period. If any such installment shall not be paid within thirty (30) days after it shall have become due and payable, then the Club Board may assess a late charge, default interest charge (not to exceed the rate prohibited by Law), fee, or such other charge as the Club Board may fix from time to time to cover the extra expenses involved in handling such delinquent installment of Club Charges. Club Charges shall be prorated if the ownership of a Club Interest commences or terminates on a day other than the first day or last day, respectively, of a month or other applicable payment period. Club Charges shall be prorated if the ownership of a Club Interest commences after or terminates before the Club Member is entitled to use all Club Weeks assigned or reserved to such Club Member in the applicable assessment year.

Section 7.6 Default Club Charges

All Costs of Enforcement assessed against a Club Member pursuant to the Club Documents, or any expense of the Club Association which is the obligation of a Club Member pursuant to the Club Documents shall become a default Club Charge assessed against the Club Member's Club Interest. Notice of the amount and demand for payment of such default Club Charges shall be sent to the Club Member prior to enforcing any remedies for non-payment hereunder.

Section 7.7 Covenant of Personal Obligation for Club Charges

All Club Members, by acceptance of the deed or other instrument of transfer of a Club Interest (whether or not it shall be so expressed in such deed or other instrument of transfer), are deemed to personally covenant and agree, jointly and severally, with all other Club Members and with the Club Association, and hereby do so covenant and agree to pay to the Club Association the (a) annual Club Charges, (b) special Club Charges, and (c) default Club Charges applicable to the Club Member's Club Interest. No Club Member may waive or otherwise escape personal liability for the payment of Club Charges provided for in this Club Declaration by not using the Club Property or by abandoning or leasing the Club Interest.

Section 7.8 Lien for Club Charges

The annual, special, and default Club Charges (including installments of the Club Charges) arising under the provisions of the Club Documents shall be burdens running with, and a perpetual lien in favor of the Club Association upon the specific Club Interest to which such Club Charges apply. To further evidence such lien upon a specific Club Interest, the Club Association shall prepare a written lien notice setting forth the description of the Club Interest, the amount of Club Charges on the Club Interest unpaid as of the date of such lien notice, the rate of default interest as set by the Club Board, the name of the Club Member or Club Members, and any and all other information that the Club Association may deem proper. The lien notice shall be signed by a member of the Club Board, an officer of the Club Association, or the Club Manager and shall be recorded in the Register's Office. Any such lien notice shall not constitute a condition precedent or delay the attachment of the lien, but such lien is a perpetual lien upon the Club Interest and attaches without notice at the beginning of the first day of any period for which any Club Charges are levied.

Section 7.9 Remedies for Nonpayment of Club Charges

If any annual, special, or default Club Charges (or any installment of the Club Charges) is not fully paid within thirty (30) days after the same becomes due and payable, then as often as the same may happen, (a) interest shall accrue at the default rate set in accordance with this Club Declaration on any amount of the Club Charges in default, accruing from the due date until date of payment, (b) the Club Association may declare due and payable all unpaid installments of the annual Club Charges or any special Club Charges otherwise due during the fiscal year during which such default occurred, (c) the Club Association may thereafter bring an action at law or in equity, or both, against any Club Member personally obligated to pay the same, (d) the Club Association may proceed to foreclose its lien against the particular Club Interest pursuant to the power of sale granted to the Club Association by this Club Declaration or in the manner and form provided by New York law for foreclosure of real estate mortgages, and (e) the Club Association may suspend the Club Member's right to vote in Club Association matters until the Club Charges are paid. An action at law or in equity by the Club Association (or counterclaims or cross-claims for such relief in any action) against a Club Member to recover a money judgment for unpaid Club Charges (or any installment thereof) may be commenced and pursued by the Club Association without foreclosing or in any way waiving the Club Association's lien for the Club Charges. Foreclosure or attempted foreclosure by the Club Association of its lien shall not be deemed to stop or otherwise preclude the Club Association from again foreclosing or attempting to foreclose its lien for any subsequent Club Charges (or installments thereof) which are not fully paid when due or for any subsequent default Club Charges. The Club Association shall have the power and right to bid in or purchase any Club Interest at foreclosure or other legal sale and to acquire and hold, lease, mortgage, and to convey, or otherwise deal with the Club Interest acquired in such proceedings.

Section 7.10 Purchaser's Liability for Club Charges

Notwithstanding the personal obligation of each Club Member to pay all Club Charges on the Club Interest, and notwithstanding the Club Association's perpetual lien upon a Club Interest for such Club Charges, all purchasers of a Club Interest shall be jointly and severally liable with the prior Club Member(s) of such Club

Interest for any and all unpaid Club Charges against such Club Interest, without prejudice to any such purchaser's right to recover from any prior Club Member(s) any amounts paid thereon by such purchaser. A purchaser's obligation to pay Club Charges shall commence upon the date the purchaser becomes the owner of the Club Interest. For purposes of Club Charges, the date a purchaser becomes the owner shall be determined as follows: (a) in the event of a conveyance or transfer by foreclosure, the date a purchaser becomes the owner shall be deemed to be upon the expiration of all applicable redemption periods; (b) in the event of a conveyance or transfer by deed in lieu of foreclosure a purchaser shall be deemed to become the owner of a Club Interest upon the execution and delivery of the deed or other instruments conveying or transferring title to the Club Interest, irrespective of the date the deed is recorded; and (c) in the event of conveyance or transfer by deed, a purchaser shall be deemed to become the owner of a Club Interest upon the execution and delivery of the deed or other instruments conveying or transferring title to the Club Interest, irrespective of the date the deed is recorded. However, such purchaser shall be entitled to rely upon the existence and status of unpaid Club Charges as shown upon any certificate issued by or on behalf of the Club Association to such named purchaser pursuant to the provisions of this Club Declaration.

Section 7.11 Subordination of Club Association's Lien for Club Charges

By acceptance of the deed or other instrument of transfer of a Club Interest, the Club Association's perpetual lien for Club Charges shall be superior to all other liens and encumbrances except the following:

- (a) real property taxes and special liens duly imposed by a New York governmental or political subdivision or special taxing district, or any other liens made superior by statute;
- (b) liens recorded prior to this Club Declaration unless otherwise agreed by the parties thereto; and
- (c) the lien of any First Mortgagee.

Any First Mortgagee who acquires title to a Club Interest by virtue of foreclosing a First Mortgage or by virtue of a deed or assignment in lieu of such a foreclosure, or any purchaser at a foreclosure sale of the First Mortgage, will take the Club Interest free of any claims for unpaid Club Charges and Costs of Enforcement against the Club Interest which accrue prior to the time such First Mortgagee acquires title to the Club Interest except to the extent the amount of the extinguished lien may be reallocated and assessed to all Club Interests as a Club Expense. All other Persons not holding liens described in this Section and obtaining a lien or encumbrance on any Club Interest after the recording of this Club Declaration shall be deemed to consent that any such lien or encumbrance shall be subordinate and inferior to the Club Association's lien for Club Charges and Costs of Enforcement as provided in this Article, whether or not such consent is specifically set forth in the instrument creating any such lien or encumbrance.

The sale or other transfer of any Club Interest shall not affect the Club Association's lien on such Club Interest for Club Charges due and owing prior to the time such purchaser acquired title and shall not affect the personal liability of each Club Member who shall have been responsible for the payment thereof except (x) as provided above with respect to First Mortgagees, (y) in the case of foreclosure of any lien enumerated in clauses (a) through (c) of this Section, and (z) as provided in the next Section. Further, no such sale or transfer shall relieve the purchaser of a Club Interest from liability for, or the Club Interest from the lien of, any Club Charges made after the sale or transfer.

Section 7.12 Statement of Status of Club Charges

On or before fourteen (14) calendar days after receipt of written notice to the Club Manager or, in the absence of a Club Manager, to the Club Board and payment of a reasonable fee set from time to time by the Club Board, any Club Member, Permitted Mortgagee, prospective purchaser of a Club Interest or their designees shall be furnished a statement of the Club Member's account setting forth:

- (a) the amount of any unpaid Club Charges then existing against a particular Club Interest;
- (b) the amount of the current installments of the annual Club Charges and the date that the next installment is due and payable;
- (c) the date(s) for payment of any installments of any special Club Charges outstanding against the Club Interest; and
- (d) any other information, deemed proper by the Club Association, including the amount of any delinquent Club Charges created or imposed under the terms of this Club Declaration.

Upon the issuance of such a certificate signed by the Club Board, by an officer of the Club Association, or by the Club Manager, the information contained therein shall be conclusive upon the Club Association as to the Person or Persons to whom such certificate is addressed and who rely on the certificate in good faith.

Section 7.13 Liens

Except liens for Club Charges provided in this Club Declaration, mechanics' liens (except as prohibited by this Club Declaration), tax liens, judgment liens and other liens validly arising by operation of law and liens arising under Permitted Mortgages, there shall be no other liens obtainable against the Club Property or against any Club Interest.

Section 7.14 Taxes

On behalf of the Club Members, the Club Association shall have the right to do and receive all things which the Club Members could do or receive as the "record owner" of the Club Units and/or Club Interests in connection with real property taxes (Real Estate Taxes), water and sewer charges, assessments and any other charges assessed against the Club Units or Club Interests by the City of New York and/or the New York City Water Board, including, but not limited to:

- (a) Completing and filing an owner's registration card and "in rem" card naming the Club Association as "owner" of the Club Units and Club Interests to receive any notices or bills for real property taxes (Real Estate Taxes), water and sewer charges, assessments or any other charges assessed against the Club Units and/or Club Interests;
- (b) Acting as agent for the Club Members for the service of process or the receipt of any notice in any "in rem" foreclosure proceedings instituted or commenced by or on behalf of the City of New York pursuant to Title 11, Chapter 4 of the Administrative Code of the City of New York relating to "in rem" foreclosures or any successor statute;
- (c) Acting as agent of the Club Members for the service of process or the receipt of any notice in any sale of tax lien(s) or foreclosure of tax lien(s) pursuant to Title 11, Chapter 3 of the Administrative Code of the City of New York relating to the sale of tax lien(s) or the foreclosure of tax lien(s) or any successor statute;
- (d) Pursuing, appealing, settling and/or terminating any "in rem" foreclosure or sale of tax lien(s) proceedings or actions commenced pursuant to Title 11, Chapters 3 and 4 of the Administrative Code of the City of New York or any successor statute;
- (e) Commencing, pursuing appealing, settling and/or terminating any administrative and certiorari proceedings to obtain reduced real property tax assessments before the New York City Tax Commission and/or the New York State Supreme Court pursuant to Chapter 7 of the New York City Charter and Article 7 of the New York State Real Property Tax Law;

(f) Acting as agent of the Club Members to receive any notices required to be sent under the New York City Charter, Sections 1511 and 1512;

(g) Taking any and all actions that any Club Member could take as a Person claiming to be aggrieved by any assessment of real property under Chapter 7 of the New York City Charter relating to proceedings before the Tax Commission and Chapter 50-a, Article 7 of the New York State Real Property Tax Law relating to judicial review of assessments of real property or any successor statutes;

(h) Commencing and/or pursuing any action to change or reduce, appealing and/or settling any water bill and/or related delinquency with the New York City Department of Environmental Protection Bureau of Water and Energy Conservation and/or the New York City Water Board; and

(i) Retaining counsel and taking any other actions which the Club Board deems necessary or appropriate in connection with the matters set forth herein.

Each Club Member expressly waives any rights such Club Member may have to do any and all of the things which he could otherwise do as a "record owner" of a Club Unit and/or Club Membership Interest, or as a Person claiming to be aggrieved by any assessment of real property as described in (g) above, including, but not limited to, the things listed in (a) through (i) above, in connection with real property taxes (Real Estate Taxes), water and sewer charges, assessments and any other charges assessed against the Club Units and/or Club Interests by the City of New York and/or the New York City Water Board, and each Club Member expressly agrees and understands that only the Club Board is entitled to take any action, receive any notices or be served with any process as the "record owner" or person aggrieved, including, but not limited to, doing any of the things listed in this Section.

Real Estate Taxes will be included in the Club Charges but will be shown as a separate line item on Club Members' bill.

ARTICLE 8

MAINTENANCE RESPONSIBILITY

Section 8.1 Club Member's Negligence

In the event that the need for maintenance, repair, or replacement of all or any portion of the Club Property or the Hotel Limited Common Elements is caused through or by the negligent or willful act or omission of a Club Member or Permitted User, then the expenses incurred by the Club Association for such maintenance, repair, or replacement shall be a personal obligation of such Club Member; and, if the Club Member fails to repay the expenses incurred by the Club Association within seven (7) days after notice to the Club Member of the amount owed, then the failure to so repay shall be a default by the Club Member, and such expenses shall automatically become default Club Charges determined and levied against such Club Interest, enforceable by the Club Association in accordance with this Club Declaration.

Section 8.2 Responsibility of the Hotel Unit Owner

The Hotel Unit Owner, from time to time, without the requirement of approval by the Club Association, Club Members, or the other Unit Owners, shall be responsible for, and have the right to undertake, the repair, replacement, improvement, maintenance, management, operation, and insurance of the Hotel Limited Common Elements, which shall be performed in a commercially reasonable manner in the determination of the Hotel Unit Owner (which determination shall be final and binding on all Unit Owners, Club Members and the Club Association) in accordance with the terms of the Condominium Documents.

ARTICLE 9

USE RESTRICTIONS

Section 9.1 Occupancy

Except for uses reserved to Sponsor in this Club Declaration, each Club Unit shall be used for dwelling purposes only, whether for permanent, temporary or transient use, except as otherwise expressly provided in this Club Declaration, all in accordance with Law.

Section 9.2 Use of Common Elements

There shall be no obstruction of the Common Elements, including the Hotel Limited Common Elements, nor shall anything be kept or stored on any part of the Common Elements, including the Hotel Limited Common Elements, by any Club Member without the prior written approval of the Club Association. Nothing shall be altered on, constructed in, or removed from the Club Property by any Club Member without the prior written approval of the Club Association.

Section 9.3 Prohibition of Increases in Insurable Risks and Certain Activities

Nothing shall be done or kept in any Club Unit or in or on the Common Elements, including the Hotel Limited Common Elements, or any part thereof, which would result in the cancellation of the insurance on all or any part of the Club or in an increase in the rate of the insurance on all or any part of the Club over what the Club Association but for such activity, would pay, without the prior written approval of the Club Association. Nothing shall be done or kept in any Club Unit or in or on the Common Elements, including the Hotel Limited Common Elements, which would be in violation of any statute, rule, ordinance, regulation, permit, or other imposed requirement of any governmental body having jurisdiction over the Club. No damage to or waste of the Club Property or the Common Elements, including the Hotel Limited Common Elements, shall be committed by any Club Member or Permitted User, and each Club Member shall indemnify and hold the Club Association the other Club Members, the Condominium Board and other Unit Owners harmless against all loss resulting from any such damage or waste caused by a Club Member or a Permitted User (including all attorneys' fees, costs and expenses incurred in the defense of claims arising by reason of this Section and incurred in establishing the right to indemnification). Failure to so indemnify shall be a default by such Club Member under this Section. At its own initiative or upon the written request of any Club Member, if the Club Association determines that further action by the Club Association is proper, the Club Association shall enforce the foregoing indemnity as default Club Charges levied against such Club Interest. In no event, regardless of any provision of the Club Documents or the Condominium Documents, shall the Club Association or the Club Board be liable to any Person for failure to enforce the provisions of this Section.

Section 9.4 Alterations

No Club Member shall decorate or alter any part of the Club Property, including any addition or modification to any kitchen or similar appliances (including, without limitation, cooking facilities).

Section 9.5 Pet Restrictions

No animal, bird, insect or livestock of any kind shall be kept on or in a Club Unit or the Common Elements, including the Hotel Limited Common Elements, except as permitted by the Club Association in its sole and final discretion and except for properly licensed and certified service animals. The Club Board may (but shall not be obligated to) approve a request or adopt Club Rules and Regulations to permit a Club Member to keep a personal household pet on or in a Club Unit or the Common Elements, including the Hotel Limited Common Elements, with such conditions as the Club Board in its sole discretion may impose; provided that neither

Sponsor, the Unit Owners, the Condominium Board, the Club Board nor the Club Association shall be liable for any personal injury, death or property damage resulting from a violation of the foregoing and any Club Member or Permitted User committing such a violation shall fully indemnify and hold harmless Sponsor, Unit Owners, Club Board, each Club Member and the Club Association in such regard.

Section 9.6 Restriction on Signs

Except with regard to operation, sale or leasing of the Commercial Units, Unsold Club Interests, or Unsold Suite Units, no signs, billboards, posterboards, or advertising structure of any kind shall be displayed, erected or maintained for any purpose whatsoever on or about the Club Property.

Section 9.7 Access to Club Units

No Club Member shall change the locks to a Club Unit.

Section 9.8 No Domiciliary Intent

No Person may enter, stay or dwell upon or about any Club Unit with the intent or desire to be or become legally domiciled in the State of New York or any political subdivision thereof, and all such Persons shall and do hereby waive, release and remise any such intent or desire. No Person may enter, stay or dwell upon or about any Club Unit with the intent that such Club Unit be or become that Person's principal dwelling, and such Person shall maintain a principal dwelling at all times at a location other than within a Club Unit.

Section 9.9 Effect on Sponsor

The restrictions and limitations set forth in this Article shall not apply to Sponsor. Sponsor shall have the right, without the consent or approval of the Club Board or other Club Members, to make alterations, additions or improvements, structural and non-structural, interior and exterior, ordinary and extraordinary, in, to and upon the Unsold Club Units.

Section 9.10 Consent; Conflict

The provisions of this Article shall not be amended, modified or in any manner impaired and/or diminished, directly or indirectly, without the prior written consent of sixty-seven percent (67%) of the voting power held by Club Members (other than Sponsor) and the prior written consent of Sponsor. In the event of any conflict between the provisions of this Section and the provisions of any other Section of this Club Declaration, the provisions of this Section shall prevail and govern.

ARTICLE 10

LIMIT ON OCCUPANCY PLANS

Except for Sponsor, no Club Unit may be used in fact or effect as part of or in furtherance of an Occupancy Plan (defined below). The term Occupancy Plan means a program, plan, agreement or other arrangement for the use, occupancy, marketing, advertising or promotion of one or more Club Units or Club Interests under any timeshare or fractional plan, residence, destination or luxury club, equity or non-equity program, interval exchange (whether the program is based on direct exchange of occupancy rights, cash payments, reward programs or other point or accrual systems) or other membership plans or arrangements through which a participant in the plan or arrangement acquires the right to use and occupy such Club Unit(s) or a portfolio of accommodations including such Club Unit(s).

ARTICLE 11

EASEMENTS

Section 11.1 Easement of Enjoyment

Every Club Member shall have a non-exclusive easement for the use and enjoyment of the Club Property and the Hotel Limited Common Elements, which shall be appurtenant to and shall pass with the title to every Club Interest, subject to the easements set forth in this Article and the Condominium Documents.

Section 11.2 Delegation of Use

Any Club Member may delegate, in accordance with the Club Documents and the Condominium Documents, the Club Member's right of enjoyment in the Club Property and the Hotel Limited Common Elements to a Permitted User of the Club Member's Club Interest.

Section 11.3 Recorded Easements

The Club Property shall be subject to any easements as shown on any recorded documents affecting the Club Property or reserved or granted under this Club Declaration.

Section 11.4 Access Easements

A non-exclusive easement in favor of each Club Member and Permitted User shall exist for pedestrian traffic over, through and across such portions of the Hotel Limited Common Elements as are designated, modified, altered and relocated from time to time by the Hotel Unit Owner for the purpose of providing direct pedestrian access to and from the applicable Club Unit and the public right-of-ways adjacent to the Club Property, subject to the procedures, rules and regulations as may be established from time to time by the Hotel Unit Owner. The Hotel Unit Owner shall be responsible for maintenance, repair, operation and replacement of the improvements within the Hotel Limited Common Elements in its sole discretion.

Section 11.5 Easement for Support

Each Club Unit and any structure or improvement now or hereafter constructed shall have an easement of support and of necessity and shall be subject to an easement of support and necessity in favor of all other Units, the Common Elements, and such other improvements constructed upon the Club Property. In the event that any structure or improvement is now or hereafter constructed so as to be connected in any manner to the improvements upon the Club Property, then there shall be (and there is hereby declared) an easement of support for such structure or improvement.

Section 11.6 Maintenance Easement

An easement is hereby granted to the Club Association and any Club Manager, and their respective officers, agents, employees and assigns upon, across, over, in, and under the Club Property and a right to make such use of the Club Property as may be necessary or appropriate to perform the duties and functions which they are obligated or permitted to perform pursuant to this Club Declaration.

Section 11.7 Easement for Warranty Work

For as long as Sponsor remains liable under any warranty, whether statutory, express or implied, for any act or omission of Sponsor in the development, construction, sale and marketing of the Club, then Sponsor and its contractors, agents and designees shall have the right, in Sponsor's sole discretion and from time to time, to enter the Club Property for the purpose of making any necessary inspections, tests, repairs, improvements and/or

replacements required for Sponsor to fulfill any of its warranty obligations. Failure of the Club Association or any Club Member to grant such access may result in the appropriate warranty being nullified and of no further force or effect.

Section 11.8 Reserved Easement of Hotel Unit Owner

There is reserved to the Hotel Unit Owner, its express successors, transferees, designees, agents, assigns and co-licensees, the exclusive right to provide room service and any other hotel services in and within the Club Property, including the exclusive right to sell, serve and deliver all types of alcoholic beverages of every kind and character to and within all Club Units. Grantees of any interest in the Club, by acceptance of any deed, lease or license, shall be and are hereby bound by such reservations of rights.

Section 11.9 Easements Deemed Created

All conveyances of Club Interests hereafter made, whether by Sponsor or otherwise, shall be construed to grant and reserve the easements contained in this Article, even though no specific reference to such easements or to this Article appears in the instrument for such conveyance.

ARTICLE 12 SPECIAL SPONSOR RIGHTS

Section 12.1 Special Sponsor Rights

Sponsor hereby reserves the right, from time to time, to perform the acts and exercise the rights hereinafter specified ("Special Sponsor Rights"). Sponsor's Special Sponsor Rights include the following:

(a) Exercise of Development Rights. The right to exercise any Development Rights (defined below) reserved in this Club Declaration.

(b) Sales, Management and Marketing. The right to locate, relocate and maintain sales offices, management offices, signs advertising the Club and models within designated Club Units owned by Sponsor. Sponsor shall have the right to relocate sales offices, management offices and models to comparable Club Units owned by Sponsor. Sponsor shall have the right to show Club Units owned by Sponsor to prospective purchasers and to arrange for the use of Club Interests owned by Sponsor for guest accommodations by prospective purchasers.

(c) Amendment of Club Documents. The right to amend the Club Documents in connection with the exercise of any Development Rights.

(d) Amendment of Condominium Documents. The right to amend the Condominium Documents in connection with the exercise of any Development Rights.

(e) Signs. For so long as Sponsor continues to own any Club Interest, the right to maintain appropriate interior signage within the Club Property advertising the Club, and any exchange program connected with the Club.

(f) Post-Sales. The right to use the Club Property as appropriate to maintain customer relations and provide post-sale services to Club Members.

(g) Use Agreements. The right to enter into, establish, execute, amend, and otherwise deal with contracts and agreements for the use, lease, repair, maintenance or regulation of storage,

off-site amenities and/or recreational facilities, which may or may not be a part of the Club for the benefit of the Club Members.

(h) Easement Rights. The rights to an easement through the Club Property as may be reasonably necessary for the purpose of discharging Sponsor's obligations arising under this Club Declaration, or the Offering Plan, including the right to grant easements through the Club Property, as may be required in Sponsor's discretion, for utility services in order to serve the Club adequately.

(i) Other Rights. The right to exercise any additional reserved rights created by any other provision of this Club Declaration.

(j) Right to Combine, Subdivide and Change Club Unit Type. Sponsor reserves the right to combine, subdivide and change the Club Unit Type of one or more Club Units, so long as Sponsor owns all of the Club Interests in such Club Units, and provided such change shall be reflected by an amendment to this Club Declaration. An amendment for such purpose shall be signed and acknowledged only by Sponsor and need not be approved by the Club Association or other Club Members, whether or not elsewhere required for an amendment. In the event a Club Unit Type is changed, whether by combination, subdivision, or interior design change, the various Club Interest Allocations and resulting Club Charges for future years shall be recalculated accordingly.

Section 12.2 Limitations on Special Sponsor Rights

Unless sooner terminated by an amendment to this Club Declaration executed by Sponsor, any Special Sponsor Right may be exercised by Sponsor so long as Sponsor (a) is obligated under any warranty or obligation; (b) holds a Development Right; (c) owns any Club Unit or Club Interest; or (d) holds a Permitted Mortgage in any Club Interest.

Section 12.3 Interference with Special Sponsor Rights

Neither the Club Association nor any Club Members may take any action or adopt any rule and/or regulation that will interfere with or diminish any Special Sponsor Rights without the prior written consent of Sponsor.

Section 12.4 Rights Transferable

Any Special Sponsor Rights created or reserved expressly under this Article for the benefit of Sponsor may be transferred to any person by an instrument describing the rights transferred and recorded in the Register's Office. Such instrument shall be executed by Sponsor and the transferee.

ARTICLE 13 DEVELOPMENT RIGHTS

Section 13.1 Development Rights

Sponsor expressly reserves the right to add Club Units and Club Interests to the Club from time to time without the consent or approval of the Club Board or the Club Members.

Section 13.2 Amendment of Club Documents

If Sponsor elects to create, to subdivide or to convert Club Units, Sponsor shall record an amendment to this Club Declaration. Mere subdivision of a Club Unit shall not affect the Club Interests of any Club Units not

included in such subdivision. The amendment to this Club Declaration shall contain at a minimum a description of the new Club Units and Club Interests being submitted to this Club Declaration.

Section 13.3 Termination of Development Rights

The Development Rights reserved to Sponsor, for itself, its successors and assigns, shall expire one (1) year after Sponsor's last conveyance of any interest in the Club Property; provided in each case, the Development Rights may be reinstated or extended by the Club Association, subject to whatever reasonable terms, conditions, and limitations the Club Board may impose on the subsequent exercise of the Development Rights by Sponsor. Sponsor may at any time release and relinquish some or all of the Development Rights with respect to all or any part of the Club Property subject to such rights by instrument executed by Sponsor and effective when recorded in the Register's Office.

Section 13.4 Interference With Development Rights

Neither the Club Association nor any Club Member may take any action or adopt any rule or regulation that will interfere with or diminish any Development Rights reserved by this Article without the prior written consent of Sponsor.

Section 13.5 Transfer of Development Rights

Any Development Rights created or reserved under this Article for the benefit of Sponsor may be transferred in whole or in part to any person by an instrument expressly describing the rights transferred and recorded in the Register's Office. Such instrument shall be executed by Sponsor and the transferee.

ARTICLE 14

INSURANCE

Section 14.1 Coverage

Commencing not later than the First Closing of a Club Interest and to the extent reasonably available, the Club Association shall obtain and maintain insurance coverage as set forth in this Article.

(a) Property Insurance. The Club Association shall maintain property insurance on the Club Property for all risk or special causes of loss in an amount not less than the full insurable replacement cost of the insured property less applicable deductibles at the time insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items normally excluded from property insurance policies.

(b) Liability Insurance. The Club Association shall maintain commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use, or management of the Club Property insuring the Club Board, the Club Association, the Club Manager, and their respective employees, agents and all persons acting as agents. Sponsor shall be included as an additional insured in Sponsor's capacity as a Club Member and member of the Club Board. Club Members shall be included as additional insureds but only for claims and liabilities arising in connection with the ownership, interest in, existence, or management of the Club Property or membership in the Club Association. The insurance shall cover claims of one or more insured parties against the other insured parties.

(c) Fidelity Insurance. The Club Association shall maintain fidelity insurance on all Persons who control or disburse funds of the Club Association. Coverage shall not be less in the

aggregate than two (2) months' current Club Charges plus reserves, as calculated from the current budget of the Club Association. Any Person employed as an independent contractor by the Club Association, including the Club Manager must obtain and maintain fidelity insurance in like amount for the benefit of the Club Association unless the Club Association names such Person as an insured employee in the policy of fidelity insurance specified above.

(d) Other Insurance. The Club Board may also procure insurance against such additional risks of a type normally carried with respect to properties of comparable character to Club Property and use that the Club Board deems reasonable and necessary, including directors' and officers' liability insurance, in order to protect the Club Property and the Club Association and the Club Members.

Section 14.2 Required Provisions

All insurance policies carried by the Club Association pursuant to the requirements of this Article must provide that:

- (a) each Club Member is an insured person under the policy with respect to liability arising out of such Club Member's interest in the Club Property or membership in the Club Association;
- (b) the insurer waives its rights to subrogation under any property insurance policy against any Club Member or member of the Club Member's household;
- (c) no act or omission by any Club Member, unless acting within the scope of such Club Member's authority on behalf of the Club Association, will void the policy or be a condition to recovery under the policy;
- (d) if, at the time of a loss under the policy, there is other insurance in the name of a Club Member covering the risks covered by the policy (other than a Club Member's policy covering Club Member's personal property), the Club Association's policy provides primary insurance;
- (e) any loss covered by the policies must be adjusted with the Club Association;
- (f) the insurance proceeds for any loss other than for a Club Member's personal property shall be payable to an insurance trustee designated for that purpose, or otherwise to the Club Association and not to any Permitted Mortgagee;
- (g) the insurer shall issue certificates or memoranda of insurance to the Club Association and, upon request, to any Club Member or Permitted Mortgagee; and
- (h) the insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Club Association and any Club Member(s) and Permitted Mortgagee(s) to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.

Section 14.3 Adjustment of Claims

The Club Association may adopt and establish written nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims adjustment. To the extent the Club Association settles a property insurance claim, it shall have the authority to assess negligent Club Members causing such loss or benefiting from such repair or restoration all deductibles paid by the Club Association. In the event more than one Club Unit is damaged by a loss, the Club Association in its reasonable discretion may assess each Club Member a prorata share of any deductible paid by the Club Association. The

Club Association is hereby irrevocably appointed agent and attorney-in-fact for each Club Member to adjust all claims arising under insurance policies maintained by the Club Association or the Condominium and to execute and deliver releases upon payment of a claim.

Section 14.4 Insurance Provisions of Condominium Documents

Nothing contained in this Article shall be construed to require the Condominium Association to maintain insurance for items already covered by insurance maintained by the Condominium or otherwise included for in the Condominium Documents. To the extent the Condominium Documents contemplate or require the participation of Unit Owners in decisions regarding the maintenance of the insurance, the decision whether to reconstruct after casualty, or the distribution of insurance proceeds, the Club Board shall be authorized on behalf of Club Members.

ARTICLE 15

RESTORATION UPON DAMAGE OR DESTRUCTION

Section 15.1 Obligation to Reconstruct or Repair

Subject to the provisions of the Condominium Documents, if any part of a Club Unit shall be damaged by casualty, such a Club Unit shall be fully reconstructed or repaired, unless the Club Members elect to terminate the Club as provided for in this Club Declaration or the Condominium is terminated as provided for in the Condominium Declaration.

Section 15.2 Plans and Specifications

Any reconstruction or repairs to a Club Unit shall be substantially in accordance with the plans and specifications for the damaged Club Unit as originally constituted, or in lieu thereof, according to plans and specifications approved by the Club Board.

If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Club Association, or if at any time during reconstruction and repair or upon completion of reconstruction and repair, the funds from insurance for the payment of the costs of reconstruction and repair are insufficient, special Club Charges shall be made against all Club Members in sufficient amounts to provide funds for the payment of such costs.

ARTICLE 16

CONDEMNATION OR EMINENT DOMAIN

The Club Association is empowered to defend and/or settle any action or threatened action with respect to the taking in condemnation or eminent domain of any portion of the Club Units, to the extent such right is not reserved to the Condominium Board in the Condominium Documents. Upon obtaining knowledge of such action or threatened action, the Club Association shall notify all affected Permitted Mortgagees of the same. Any award or settlement for the taking in condemnation or eminent domain of a Club Unit shall be made payable to the Club Association for the benefit of the Club Members thereof in proportion to their respective interests in such Club Unit. In the event repair or restoration of the Club Unit is possible in the reasonable judgment of the Club Board, the Club Board shall arrange for the same and shall disburse the proceeds of such award or settlement as shall reasonably be necessary to effect such repair or restoration to the contractors engaged for such purpose in appropriate progress payments. The balance of such proceeds, or all of such proceeds if no determination to repair or restore is made, shall be disbursed by the Club Association to the Club Members of that Club Unit in

proportion to their respective Club Interests. In the event a Club Unit is not repaired or restored after condemnation or eminent domain, the Club Members of such Club Unit shall not longer remain Club Members of the Club Association and the Club Unit shall be removed from the Club and no longer subject to this Club Declaration.

ARTICLE 17

DURATION OF COVENANTS; AMENDMENT AND TERMINATION

Section 17.1 Term

This Club Declaration and any amendments or supplements to it shall remain in effect until an instrument is recorded in the Register's Office, terminating the Club. The Club may be terminated at any time by the approval in writing of all Club Members and all Permitted Mortgagees. Notice of a meeting at which the proposed termination is to be considered shall be given not less than thirty (30) days prior to the date of such meeting. Termination of the Club shall be evidenced by a certificate of the Club Association executed by the president and secretary certifying to the facts effecting the termination, such certificate to become effective upon being recorded in the Register's Office. In the event that the Club is terminated prior to the termination of the Condominium, each Club Member shall become a tenant in common with every other owner of a Club Interest in the Club. The Club shall be automatically terminated if the Condominium is terminated.

Section 17.2 Amendment of Club Declaration

This Club Declaration may be amended as follows:

(a) General Amendments. Except as otherwise allowed or restricted by this Section, this Club Declaration may be amended by a vote or agreement of Club Members holding more than fifty percent (50%) of the total voting power of the Club Association, excluding Club Interests owned by Sponsor. Notwithstanding the foregoing provision, the percentage of the voting power of the Club Association necessary to amend a specific clause or provision of this Club Declaration shall not be less than the percentage of affirmative voting power prescribed for action to be taken under that clause or provision.

(b) Permitted Use Amendments. Except to the extent otherwise expressly permitted or required in this Club Declaration, this Club Declaration may be amended to change the uses to which any Club Unit is restricted only by a vote or agreement of Club Members holding at least sixty-seven percent (67%) of the total voting power of the Club Association, excluding Club Interests owned by Sponsor.

(c) Special Sponsor Rights Amendments. Except to the extent otherwise expressly permitted or required in this Club Declaration, this Club Declaration may be amended to increase Special Sponsor Rights, increase the number of Club Units or change the boundaries of any Club Unit or the Club Interest only by a vote or agreement of Club Members holding at least sixty-seven percent (67%) of the total voting power of the Club Association, including sixty-seven percent (67%) of the voting power allocated to Club Interests not owned by Sponsor.

Section 17.3 Amendment of Other Governing Documents

The Club Articles and Club By-Laws shall be amended in accordance with the terms of such documents. The Club Rules and Regulations may be amended by the Club Board.